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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/309,128 | 05/10/1999 | GAYLE MARIE FRANKENBACH | 7258XR | 7129 |

27752 7590 10/03/2002

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

HARDEE, JOHN R

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1751

DATE MAILED: 10/03/2002

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/309,128

Applicant(s)
Frankenbach et al.

Examiner
John R. Hardee

Art Unit
1751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 15-18, and 26-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 15-18, and 26-28 is/are rejected.
- 7) ☒ Claim(s) 29 and 30 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. This application is in condition for allowance except for the presence of subject matter drawn to inventions non-elected with traverse in Paper no. 5. Note that combinations of non-elected solvents and stabilizers are obvious, as shown below. *Amendment of the claims to recite the elected solvent, stabilizer and fabric softener will overcome this rejection. No additional inventions will be examined after final rejection.*

Claim Rejections - 35 USC § 103

2. Claims 1-5, 7, 15-18 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al., US 5,545,350. The reference discloses compositions comprising DEQA fabric softening actives and highly ethoxylated nonionic surfactants. Viscosity modifiers may be added to lower the viscosity of the molten DEQA (abstract). Suitable modifiers include the ion pair complexes disclosed at col. 15, lines 6+. Mixtures of water and an organic solvent may be used as a carrier (col. 12, lines 23+). Suitable carriers include ethanol, propanol, isopropanol and butanol. These are disclosed in applicant's specification as meeting the recited ClogP requirement. This reference differs from the claimed subject matter in that it does not disclose a composition which exemplifies applicant's claims.

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It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (703) 305-

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5599. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (703) 308-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'J. Hardee', is positioned above the printed name and title.

John R. Hardee
Primary Examiner
October 1, 2002